



11-28-1947

High Command Case: Indictment

International Military Tribunal

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I. INDICTMENT

TABLE OF CONTENTS

	Page
COUNT ONE—CRIMES AGAINST PEACE.....	13
A. Austria and Czechoslovakia	15
B. Poland, France, and The United Kingdom	16
C. Denmark and Norway	18
D. Belgium, The Netherlands, and Luxembourg	19
E. Yugoslavia and Greece	22
F. The Union of Soviet Socialist Republics	25
G. The United States of America	28
COUNT TWO—WAR CRIMES AND CRIMES AGAINST HUMANITY: CRIMES AGAINST ENEMY BELLIGERENTS AND PRISONERS OF WAR	29
A. The "Commissar" Order	30
B. The "Commando" Order	31
C. Prohibited Labor of Prisoners of War	32
D. Murder and Ill-treatment of Prisoners of War	33
COUNT THREE—WAR CRIMES AND CRIMES AGAINST HUMANITY: CRIMES AGAINST CIVILIANS	36
A. Deportation and Enslavement of Civilians	37
B. Plunder of Public and Private Property, Wanton Destruction, and Devastation not Justified by Military Necessity.....	39
C. Murder, Ill-treatment and Persecution of Civilian Populations	40
COUNT FOUR—COMMON PLAN OR CONSPIRACY	48
APPENDIX—STATEMENT OF MILITARY POSITIONS HELD BY THE DEFEND- ANTS AND COPARTICIPANTS	48

The United States of America, by the undersigned Telford Taylor, Chief of Counsel for War Crimes, duly appointed to represent said Government in the prosecution of war criminals, charges that the defendants herein, with divers other persons, including Erich Raeder, Gerd von Rundstedt, Walther von Brauchitsch, Fedor von Bock, Wilhelm Keitel, Fritz Erich von Manstein and Alfred Jodl (see Appendix, pp. 48-55) committed crimes against peace, war crimes and crimes against humanity, and participated in a common plan and conspiracy to commit crimes against peace, all as defined in Control Council Law Number 10, duly enacted by the Allied Control Council on 20 December 1945. These crimes included planning, preparing, initiating, and waging of wars of aggression

and invasions of other countries; murder, torture, deportation, enslavement into forced labor and mistreatment of millions of persons; plunder of public and private property, wanton devastation, and destruction of cities, towns and, villages; and other grave crimes as set forth in this indictment.

The persons accused as guilty of these crimes and accordingly named as defendants in this case are—

WILHELM VON LEEB—Generalfeldmarschall (General of the Army); October 1935 to February 1938, Commander in Chief Army Group Command (Heeresgruppenkommando) 2; October 1938 to November 1938, Commander in Chief 12th Army; September 1939 to May 1941, Commander in Chief Army Group C; June 1941 to January 1942, Commander in Chief Army Group North.

HUGO SPERRLE—Generalfeldmarschall (General of the Army); November 1936 to October 1937, Commander of the "Condor Legion" in Spain; February 1938 to January 1939, Commanding General of Air Group (Luftgruppe) 3; February 1939 to August 1944, Commander in Chief Air Fleet (Luftflotte) 3.

GEORG KARL FRIEDRICH-WILHELM VON KUECHLER—Generalfeldmarschall (General of the Army); September 1939, Commander in Chief 3d Army; October and November 1939, Commander of East Prussian Defense Zone; November 1939 to January 1942, Commander in Chief 18th Army; January 1942 to January 1944, Commander in Chief Army Group North.

JOHANNES BLASKOWITZ—Generaloberst (General); November 1938 to August 1939, Commander in Chief Army Group Command (Heeresgruppenkommando) 3; September 1939 to October 1939, Commander in Chief 8th Army; October 1939, Commander in Chief 2d Army; October 1939 to May 1940, Commander in Chief East (Oberbefehlshaber Ost); May 1940, Commander in Chief 9th Army; June 1940, Military Commander (Militärbefehlshaber) Northern France; October 1940 to May 1944, Commander in Chief 1st Army; May 1944 to September 1944, Acting Commander in Chief Army Group G; December 1944 to January 1945, Commander in Chief Army Group G; January 1945 to April 1945, Commander in Chief Army Group H; April 1945, Commander in Chief Netherlands and 25th Army.

HERMANN HOTH—Generaloberst (General); November 1938 to November 1940, Commanding General XV Corps; November 1940 to October 1941, Commander Panzer Group 3; October 1941 to April 1942, Commander in Chief 17th Army; May 1942 to December 1943, Commander in Chief 4th Panzer Army.

HANS REINHARDT—Generaloberst (General); October 1938 to February 1940, Commander 4th Panzer Division; February 1940

to October 1941, Commanding General XLI Corps; October 1941 to August 1944, Commander of Panzer Group 3 (later 3d Panzer Army); August 1944 to January 1945, Acting Commander in Chief Army Group Center.

HANS VON SALMUTH—Generaloberst (General); 1937 to August 1939, Chief of Staff Army Group Command (Heeresgruppenkommando) 1; September and October 1939, Chief of Staff Army Group North; October 1939 to May 1941, Chief of Staff Army Group B; May 1941 to February 1942, Commanding General XXX Corps; April and May 1942, Acting Commander in Chief 17th Army; June and July 1942, Acting Commander in Chief 4th Army; July 1942 to February 1943, Commander in Chief 2d Army; August 1943 to August 1944, Commander in Chief 15th Army.

KARL HOLLIDT—Generaloberst (General); November 1938 to August 1939, Commander of Infantry (Infanteriefuehrer) in District 9; September 1939, Commander 52d Infantry Division; September 1939 to October 1939, Chief of Staff 5th Army; October 1939 to May 1940, Chief of Staff to the Commander in Chief East; May 1940 to October 1940, Chief of Staff 9th Army; October 1940 to January 1942, Commander 50th Infantry Division; January 1942 to December 1942, Commanding General XVII Corps; December 1942 to March 1943, Commander Army (Armeeabteilung) Hollidt; March 1943 to April 1944, Commander in Chief 6th Army.

OTTO SCHNIEWIND—Generaladmiral (Admiral); November 1937 to November 1938, Chief of Navy Armament Office (Marine-Wehr-Amt); November 1938 to May 1941, Chief of the Navy Command Office (Marine-Kommando-Amt), and Chief of Staff of the Naval War Staff (Seekriegsleitung); June 1941 to July 1944, Commander of the Fleet (Flottenchef); March 1942 to August 1942, Commander of Naval Battle Forces (Flottenstreitkraefte) in Norway; March 1943 to May 1944, Commander of Naval Group North (Marinegruppe Nord).

KARL VON ROQUES—General der Infanterie (Lieutenant General, Infantry); April 1940 to March 1941, Commander of a Division in the Zone of the Interior; March 1941 to June 1942, Commander Rear Area, Army Group (rueckwaertiges Heeresgebiet) South; September and October 1941, Commanding General of Group (Armeegruppe) von Roques, July 1942 to December 1942, Commander Rear Area, Army Group A.

HERMANN REINECKE—General der Infanterie (Lieutenant General, Infantry); January 1939 to December 1939, Chief of the Department "Armed Forces General Affairs" (Amtsgruppe Allgemeine Wehrmacht-Angelegenheiten) in the High Command of the Armed Forces (Oberkommando der Wehrmacht "OKW");

1939 to 1945, Chief of the General Office of the OKW (Allgemeines Wehrmachtamt); 1943 to 1945, Chief of the National Socialist Guidance Staff of the OKW (N.S. Fuehrungsstab im OKW).

WALTER WARLIMONT—General der Artillerie (Lieutenant General, Artillery); August to November 1936, Military Envoy to General Franco in Spain, and Leader of the German Volunteer Corps; November 1938 to September 1944, Chief of Department National Defense (Landesverteidigung (L)), in the Armed Forces Operations Staff (Wehrmachtfuehrungsstab "WFSt") of the OKW; January 1942 to September 1944, Deputy Chief "WFSt".

OTTO WOEHLE—General der Infanterie (Lieutenant General, Infantry); April 1938, Ia (Operations Officer) Army Group 5 (later changed to AOK 14); October 1939 to October 1940, Chief of Staff XVII Corps; October 1940 to May 1942, Chief of Staff 11th Army; May 1942 to February 1943, Chief of Staff Army Group Center; February 1943 to July 1943, Commanding General I Corps; July and August 1943, Acting Commander XXVI Corps; August 1943 to December 1944, Commander in Chief 8th Army; December 1944 to April 1945, Commander in Chief Army Group South.

RUDOLF LEHMANN—Generaloberstabsrichter (Lieutenant General, Judge Advocate); July 1938 to May 1944, Ministerial Director in the OKW and Chief of the Legal Division (Wehrmachtrechtswesen—"WR"); May 1944 to May 1945, Judge Advocate General of the OKW (Generaloberstabsrichter).

Reference is hereby made to the Appendix (pp. 48-55) of this indictment for a more complete statement of the positions held by each of the defendants.

COUNT ONE—CRIMES AGAINST PEACE

1. All of the defendants, with divers other persons, including the coparticipants listed in the Appendix, during a period of years preceding 8 May 1945, committed crimes against peace as defined in Article II of Control Council Law Number 10, in that they participated in the initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to the planning, preparation, initiation, and waging of wars of aggression, and wars in violation of international treaties, agreements and assurances.

2. The defendants held high military positions in Germany and committed crimes against peace in that they were principals in,

accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations and groups connected with, the commission of crimes against peace.

3. The invasions and wars referred to and the dates of their initiation were as follows: Austria, 12 March 1938; Czechoslovakia, 1 October 1938 and 15 March 1939; Poland, 1 September 1939; the United Kingdom and France, 3 September 1939; Denmark and Norway, 9 April 1940; Belgium, the Netherlands, and Luxembourg, 10 May 1940; Yugoslavia and Greece, 6 April 1941; the U.S.S.R., 22 June 1941; and the United States of America, 11 December 1941.

4. The origins, development, and background of the crimes which the defendants herein committed, and the criminal plans in which they participated, may be traced through many decades of German militarism. After World War I, the leaders of the German Army and Navy collaborated with each other and with German armament manufacturers to evade, by clandestine means, the limitations which the Versailles Treaty had imposed on the German Armed Forces. The creation of a Wehrmacht so large and powerful that Germany could expand her geographical boundaries by force or threat of force was the prime objective of Germany's military leaders and the Nazis alike, and was the foundation stone of their collaboration. Soon after Hitler came to political power, Germany withdrew from the International Disarmament Conference and the League of Nations, and in May 1934 Raeder issued a top secret armament plan "with primary view to readiness for a war without any alert period." Naval construction in violation of treaty limits was intensified under the Third Reich, and in 1935 Germany openly announced the establishment of the German Air Force. In March 1935 military service was made compulsory in Germany, and the same year the peacetime strength of the German Army was established at 500,000 men. The German military leaders, in collaboration with certain political and industrial leaders, thereafter brought about an enormous expansion of the German Armed Forces, and organized the entire nation "as a great political military army" in preparation for German conquest. At the same time, and in the course of planning and preparing for aggressive wars, the Third Reich adopted a policy of strengthening "Nazi" and "Fascist" political movements in other countries, and entered into alliances or close relations with other countries, notably Italy and Japan, which secured their support for, and participation in, Germany's program of conquest by military force. When civil war broke out in Spain, Germany's military and political leaders sent troops and arms, for the purpose of establishing

a new regime in Spain which would support the Third Reich in its aggressive and warlike policies, and in order to exploit the civil war as a testing ground for German planes and other arms and as a training ground for German pilots and other troops. The defendant WARLIMONT was the first commander of the German troops in Spain; subsequently these troops became known as the "Condor Legion", of which the defendant SPERRLE was the commander from November 1936 to November 1937. The policies and activities described in this paragraph greatly increased Germany's capacity to wage aggressive war, and led to the major aggressive steps hereinafter set forth.

A. Austria and Czechoslovakia

5. At least as early as November 1937, discussions took place between the military and political leaders of the Third Reich with respect to the destruction, by force or threat of force, of the independence of Austria and Czechoslovakia and the conquest of these countries. A plan for the military occupation of Austria, known as "Fall Otto" (Case Otto), had previously been prepared by the German military leaders. On 11 and 12 February 1938 Hitler summoned the Austrian Chancellor Schuschnigg to a conference at Berchtesgaden and subjected Schuschnigg to violent political and military threats in order to strengthen the Nazi Party in Austria and to undermine Austrian independence. The defendant SPERRLE, Keitel, and other military leaders participated in this meeting and in bringing pressure to bear on Schuschnigg. Thereafter, SPERRLE and other military leaders conducted a campaign of threatening military maneuvers in order to maintain military pressure against Austria. On 9 March 1938 in an attempt to preserve the independence of his country, Schuschnigg announced a plebiscite on the question of Austrian independence, to be held on 13 March 1938. On 10 March 1938 Hitler conferred with various military leaders, who thereafter commenced immediate preparations for the invasion of Austria in accordance with the preexisting plan ("Fall Otto"), and a German ultimatum was sent to Schuschnigg demanding that the plebiscite not be held. Mobilization orders were dispatched to the available units of the German Armed Forces. Schuschnigg succumbed to these threats, resigned, and was succeeded by Seyss-Inquart. On 12 March 1938 German troops marched into Austria, and the next day, pursuant to a "law" signed by Seyss-Inquart on behalf of Austria, and by Hitler and others on behalf of Germany, Austria was annexed to Germany.

6. After the annexation of Austria, the German military leadership, including Rundstedt, Brauchitsch, and Manstein, concen-

trated on plans for the destruction of Czechoslovakia. These plans were known as "Fall Gruen" (Case Green). On 30 May 1938, Hitler issued a military directive which announced his "unalterable decision to smash Czechoslovakia by military action in the near future". On 10 August 1938, the defendants LEEB, SPERRLE, KUECHLER, SALMUTH, and others met with Hitler at Berchtesgaden to discuss the timing of the planned attack on Czechoslovakia. During the next 6 weeks, the German Armed Forces were brought to an advanced state of preparation in accordance with the plan ("Fall Gruen") for the invasion of Czechoslovakia in which the German 12th Army, commanded by the defendant LEEB, and the German 2d Army, of which the defendant SALMUTH was chief of staff, would participate. As a result of violent military threats, and after the diplomatic conferences at Berchtesgaden and Bad Godesberg, the Government of Czechoslovakia capitulated to Hitler's demand for the cession of the Sudetenland, as provided for in the Munich Pact of 29 September 1938. Immediately thereafter, the Sudetenland was occupied by German forces under the command of the defendant LEEB.

7. On 11 October 1938, in response to an inquiry from Hitler, Keitel set forth certain estimates as to the amount of forces and time which would be required to break all military resistance in Bohemia and Moravia. On 21 October 1938, a new directive to the armed forces stated that "it must be possible to smash at any time the remainder of Czechoslovakia if her policy should become hostile towards Germany" and that a later order would specify "the future tasks for the armed forces and the preparation for the conduct of war resulting from those tasks". On 14 March 1939, the Czech President (Hacha) was summoned to Berlin and was threatened by Hitler, Keitel, and others with the immediate invasion of Bohemia and Moravia and the destruction of Prague by bombing unless the incorporation of Bohemia and Moravia into the Reich was consented to. On 15 March 1939, in flagrant violation of the Munich Pact, German troops, under the command of defendant BLASKOWITZ and others, occupied Bohemia and Moravia, and these states were incorporated into the Reich as a Protectorate by a decree of 16 March 1939.

B. Poland, France, and The United Kingdom

8. After the successful consummation of the above described invasions and preparations for aggressive war, the defendants herein, and other high military and political leaders of Germany, proceeded with their plans for the conquest of Poland. To this end, Brauchitsch as Commander in Chief of the Army was instructed by Hitler on 25 March 1939 that the Polish question was to be

worked on, that the timing of a solution would be based upon favorable political conditions, and that Poland should be knocked out so completely that it need not be taken into account as a political factor for decades. Work on military preparations was begun immediately. On 3 April 1939, "Fall Weiss" (Case White) was adopted as the code name for the plan to invade Poland, and Keitel, in a message to military leaders, gave as the main objective the destruction of the Polish Armed Forces. On 28 April 1939 Hitler delivered a public address in the Reichstag, complaining that "Poland, like Czechoslovakia, a year ago, believes under the pressure of a lying international campaign, that it must call up troops, although Germany on her part has not called up a single man and had not thought of proceeding in any way against Poland."

9. On 23 May 1939, Hitler held a meeting attended by SCHNIEWIND, WARLIMONT, Brauchitsch, and others, at which Hitler reiterated his intention to attack Poland. He stated that Danzig was not the subject of the dispute at all; that it was a question of expanding Germany's living space in the East and of securing food resources. He continued: "There is, therefore, no question of sparing Poland, and we are left with the decision to attack Poland at the first suitable opportunity. We cannot expect a repetition of the Czech affair. There will be war."

10. During the following three months, intensive and detailed preparations for war, based on "Fall Weiss", were undertaken by KUECHLER, BLASKOWITZ, REINHARDT, SALMUTH, HOLLIDT, SCHNIEWIND, WARLIMONT, Rundstedt, Brauchitsch, and Manstein, and by other military leaders. The over-all operational planning for "Fall Weiss" was initiated and worked out by the "Working Staff Rundstedt", headed by Rundstedt with Manstein as his chief of staff. Preparations were made on the basis of a surprise attack on Poland. By 15 June 1939, these plans had been prepared and distributed; KUECHLER and BLASKOWITZ were among those who received copies. Two army groups, Army Group South, commanded by Rundstedt and composed of the 14th, 10th, and 8th Armies, and Army Group North, commanded by Bock and composed of the 3d and 4th Armies, were formed in eastern Germany. A third army group, Army Group C, commanded by LEEB and composed of the 1st, 7th and 16th Armies and Panzer Group Guderian, was formed in western Germany. Conferences between the commanders of these army groups and armies took place frequently. As a result of these plans, by 22 June 1939, a preliminary timetable for the invasion of Poland was transmitted to Hitler. On 14 July 1939 the final timetable was completed and distributed to SCHNIEWIND, Brauchitsch, and other military leaders, along with orders for the taking of hos-

tages, treatment of partisans, arrest of Jews, internment of male Poles of the age group between 17 and 45, and similar orders.

11. On 22 August 1939, Hitler called a conference of military leaders to announce the decision to attack Poland at once. All the principal leaders of the armed forces, including the defendants LEEB, KUECHLER, BLASKOWITZ, SCHNIEWIND, WARLIMONT and others, were present. Hitler stated that it was clear to him that a conflict with Poland would come sooner or later; that he had determined upon a "solution by force." He confidently boasted that Brauchitsch had promised to bring the war against Poland to a conclusion within a few weeks.

12. During this period of planning for the Polish invasion, a series of frontier "incidents" were used to justify the impending attack. Among such manufactured incidents was a spurious attack on 31 August 1939, against the radio station at Gleiwitz, Germany, by Polish-speaking SS men in Polish uniforms. Earlier on the same day Hitler had issued his order to invade Poland on 1 September 1939, at 0445 hours. This invasion precipitated aggressive war also against the United Kingdom and France. Among the units which took part in the Polish attack were Army Group South, commanded by Rundstedt with Manstein as chief of staff; the 8th Army of that group, commanded by BLASKOWITZ; Army Group North, commanded by Bock, with SALMUTH as chief of staff; the 3d Army of that group, commanded by KUECHLER; the XV Corps, commanded by HOTH, and the 4th Panzer Division, commanded by REINHARDT.

C. Denmark and Norway

13. For some time prior to 10 October 1939, the German Naval War Staff had been considering the importance of Norway for sea and air warfare against England and France and had originated and developed plans for the invasion and occupation of Norway. On 10 October 1939, the leading members of the Naval War Staff urged upon Hitler the importance of such an invasion and, as the result of their influence, Hitler took the matter under consideration. On 12 December 1939, Hitler met with the Norwegians, Quisling, and Hagelin. Thereafter, during the month of December 1939, while WARLIMONT proceeded with preparations for the invasion of Norway, Hagelin maintained contact with SCHNIEWIND for the purpose of developing a *coup d'état* through the "Quisling Party", and giving the German Navy information, which was passed on to WARLIMONT. This collaboration between Quisling, Hagelin, SCHNIEWIND, and WARLIMONT continued through March 1940.

14. On 27 January 1940, Keitel issued a memorandum prepared by WARLIMONT's office concerning the planned invasion of Denmark and Norway and designating the operation "Weseruebung" (Weser Exercise). On 1 March 1940, Hitler issued a directive prepared in WARLIMONT's office for "Weseruebung", stating in part:

The development of the situation in Scandinavia requires the making of all preparations for the occupation of Denmark and Norway by a part of the German Armed Forces. * * * This operation should prevent British encroachment on Scandinavia and the Baltic; further it should guarantee our ore base in Sweden and give our navy and air force a wider starting line against Britain. * * * On principle we will do our utmost to make the operation appear as a *peaceful* occupation, the object of which is the military protection of the neutrality of the Scandinavian States. Corresponding demands will be transmitted to the governments at the beginning of the occupation. If necessary, demonstrations by the navy and the air force will provide the necessary emphasis. If, in spite of this, resistance should be met with, all military means will be used to crush it.

The staff (for the operation) is to be completed from all the three branches of the armed forces.

It is most important that the Scandinavian States as well as the western opponents should be *taken by surprise* by our measures. * * *

15. At the same time a working staff was formed within the Naval War Staff, and on 5 March 1940, at a conference within the navy, drafts of the first directives for the operation were prepared, with the approval of SCHNIEWIND. On 12 March 1940, SCHNIEWIND issued an order to various navy group commands giving tactical directives for landing locations in the invasion of Norway. On 9 April 1940, the German Armed Forces invaded Denmark and Norway.

16. Only the defendants SCHNIEWIND, REINECKE, WARLIMONT, and LEHMANN are charged with responsibility under paragraphs 13 to 15 inclusive of this count.

D. Belgium, The Netherlands and Luxembourg

17. On 23 May 1939, Hitler discussed with SCHNIEWIND, WARLIMONT, Brauchitsch and other high ranking Wehrmacht leaders the future tasks of the armed forces. Hitler said: "Dutch and Belgian air bases must be occupied. * * * Declarations of neutrality must be ignored. If England and France intend the war between Germany and Poland to lead to a conflict, they will support Holland and Belgium in their neutrality and make them

build fortifications, in order finally to force them into cooperation. * * * Therefore, if England intends to intervene in the Polish war, we must occupy Holland with lightning speed. * * * An effort must be made to deal the enemy a significant or the final decisive blow. Considerations of right, or wrong, or treaties do not enter into the matter. * * * If Holland and Belgium are successfully occupied and held, and if France is also divided, the fundamental conditions for a successful war against England will have been secured."

18. On 22 August 1939, in a conference previously described in paragraph 11 hereof, and attended by LEEB, KUECHLER, BLASKOWITZ, SCHNIEWIND, WARLIMONT, Rundstedt, Brauchitsch, Manstein, and other high-ranking officers, Hitler stated: "Another possibility is the violation of Dutch, Belgian, and Swiss neutrality. I have no doubt that all these states, as well as Scandinavia, will defend their neutrality by all available means. England and France will not violate the neutrality of these countries." On the same date and again on 6 October 1939, publicly and to the knowledge of these defendants, Hitler assured Belgium and Holland that he would respect their neutrality.

19. On 7 October 1939 Brauchitsch ordered LEEB and others to prepare for the immediate invasion of France, Luxembourg, Holland, and Belgium, and on 9 October 1939 Hitler distributed to Brauchitsch, as Commander in Chief of the Army, as well as to the Commanders in Chief of the Navy and Air Force, a memorandum requiring preparations to be made for an attacking operation through Luxembourg, Belgium, and Holland. In this memorandum Hitler stated that the only possible area of attack against France was through those countries, and that "The trifling significance of treaties of agreement has been proved on all sides in recent years." The commanders were ordered to keep Hitler fully informed of the state of preparation. On 19 October 1939, pursuant to Hitler's instructions, Brauchitsch distributed an over-all plan of operations, under the code name "Fall Gelb" (Case Yellow), for the offensive through the Low Countries. This was distributed to Rundstedt, as Commander in Chief of Army Group A, to LEEB of Army Group C, to SPERRLE, as Commander in Chief of Air Fleet 3, to BLASKOWITZ, as Commander of the 2d Army, and to other army and army group commanders; Manstein, as Chief of Staff of Army Group A, SALMUTH, as Chief of Staff of Army Group B, and WARLIMONT, as Deputy Chief of Operations of OKW, also received notice of this plan. From November to May 1940, the date of the invasion was repeatedly postponed for tactical reasons.

20. On 11 November 1939, Rundstedt, with Manstein as his Chief of Staff, held a conference with the commanders of the armies, corps, and divisions within his group, to consider the tactics necessary in the impending attack. On 16 November 1939, Army Group B issued its operational orders for the attack on Holland to subordinate units, including among others, the 9th Army with HOLLIDT as Chief of Staff and the 18th Army commanded by KUECHLER. During the period of tactical planning by the field commanders in October and November, Brauchitsch representing the army, and WARLIMONT and others of the OKW, were working on administrative plans for the military occupation of the Low Countries.

21. On 23 November 1939, Hitler again discussed the intended operation with the commanding generals and their chiefs of staff. Among those present at this meeting were LEEB, KUECHLER, SALMUTH, HOLLIDT, SCHNIEWIND, Rundstedt, Brauchitsch, and Manstein. At this time Hitler stated:

We have an Achilles heel: The Ruhr. The progress of the war depends on the possession of the Ruhr. If England and France push through Belgium and Holland into the Ruhr, we shall be in the greatest danger. * * * Certainly England and France will assume the offensive against Germany when they are armed. England and France have means of pressure to bring Belgium and Holland to request English and French help. In Belgium and Holland the sympathies are all for France and England. * * * If the French Army marches into Belgium in order to attack us, it will be too late for us. We must anticipate them. * * * We shall sow the English coast with mines which cannot be cleared. This mine warfare with the Luftwaffe demands a different starting point. England cannot live without its imports. We can feed ourselves. The permanent sowing of mines on the English coasts will bring England to her knees. However, this can only occur if we have occupied Belgium and Holland. * * * My decision is unchangeable; I shall attack France and England at the most favorable and quickest moment. Breach of the neutrality of Belgium and Holland is meaningless. No one will question that when we have won. We shall not bring about the breach of neutrality as idiotically as it was in 1914. If we do not break the neutrality, then England and France will. Without attack, the war is not to be ended victoriously.

22. On 12 December 1939, SCHNIEWIND ordered Naval Group West to support the army operations in the coming offensive against the Low Countries. A copy of this order went to WARLIMONT. On 30 December 1939, a further tactical order for the

navy in the coming operations was received from OKW and initialed by SCHNIEWIND. In a report on 12 January 1940, Rundstedt stressed his conception of a total decision on land with one overwhelming offensive. He continued: "Partial goals, as they were given at first in the directives of the OKH, like the defeat of strong enemy forces in Belgium or Northern France and the conquest of the Belgian Coast, do not justify the bad political repercussions which the breach of the neutrality of three states will certainly entail." In reply Brauchitsch pointed out that it was a mistake to assume that only a partial goal would be reached.

23. On 27 March 1940, a general conference with Hitler was held, which most of the commanding officers attended. LEEB made a report at this conference concerning his share in the coming campaign. Hitler expressed his satisfaction with the way the armed forces had been prepared during the preceding half year. On 27 March 1940, the OKW issued an order signed by WARLIMONT and distributed to the army and air force, as well as to other departments of the OKW, providing for the closing of the border on the night before the invasion of the Low Countries. On 9 May 1940, a Hitler decree previously prepared early in November 1939, was issued formally authorizing Brauchitsch to set up a military administration in Luxembourg, Belgium, and Holland.

24. On 10 May 1940, German forces invaded the Netherlands, Belgium, and Luxembourg. The immediate order for the invasion was given by Brauchitsch as Commander in Chief of the Army. A principal part in the invasion was taken by Army Group A, commanded by Rundstedt. One of the corps in the 12th Army of his group was the XLI Corps commanded by REINHARDT. Other elements that took part in the attack included Army Group B, with SALMUTH as its Chief of Staff; XV motorized corps of the 4th Army, commanded by HOTH; the XXXVIII Corps of the 4th Army, commanded by Manstein; and the 18th Army under the command of KUECHLER. Army Group C, which subsequently attacked directly into France, was under the command of LEEB, who had been active in the planning of the entire campaign. Air-fleet (Luftflotte) 3, commanded by SPERRLE, supported Army Group A in its attack. On 10 June 1940, Italy joined Germany in the attack upon France and Great Britain.

E. Yugoslavia and Greece

25. After Italy's declaration of war upon France and Great Britain, Mussolini tried to enlarge Italy's African holdings by attacks upon the British in Africa. He had long had the ambition to expand Italy's dominion in the Mediterranean area; on 28 October 1940, Italy served an ultimatum on Greece, demanding the sur-

render of certain Greek bases. Upon the expiration of the ultimatum, Italian troops invaded Greece, Italian attacks were thrust back and it became necessary for Germany to plan to assist Italy.

26. On 12 November 1940, Hitler issued Directive No. 18 outlining proposed military operations, in which he stated:

2. Spain and Portugal.—Political steps to bring about an early Spanish entry into the war have been taken. The aim of German intervention in the Iberian Peninsula (code name Felix) will be to drive the English out of the western Mediterranean.

For this purpose:

a. Gibraltar will be taken and the Straits closed.

b. The British will be prevented from gaining a foothold at another point of the Iberian Peninsula, or the Atlantic Islands.

The preparation and execution of this operation is intended as follows:

Section I

a. Reconnaissance troops (officers in civilian clothes) make the necessary preparations for the action against Gibraltar and for taking over airdromes. As regards disguise and cooperation with the Spaniards they will comply with the security measures of the chief of foreign intelligence.

b. Special units of the foreign intelligence bureau are to take over the protection of the Gibraltar area, in secret cooperation with the Spaniards, against English attempts to widen the terrain in front and against premature discovery and frustration of our preparations.

* * * * *

4. Balkans.—The commanders in chief of the army will make preparations for occupying the Greek mainland north of the Aegean Sea in case of need, entering through Bulgaria, and thus make possible the use of German Air Force units against targets in the eastern Mediterranean, in particular against those English air bases which are threatening the Rumanian oil area.

In order to be able to face all eventualities and to keep Turkey in check, the use of an army group of an approximate strength of ten divisions is to be the basis for the planning and the calculations of deployment. It will not be possible to count on the railway leading through Yugoslavia for moving these forces into position.

This directive was prepared in WARLIMONT'S office and was sent to various offices of the army and navy.

27. On 13 December 1940, Hitler issued Directive No. 20 concerning operation "Marita", the code name adopted for the planned invasion of Greece, in which he said it was necessary to foil the British endeavor "to create air bases under the protection of a Balkan front". He continued, "My plan therefore is (a) to form a slowly increasing task force in southern Rumania within the next months; (b) after the setting in of favorable weather, probably in March, to send this task force for the occupation of the Aegean North Coast by way of Bulgaria, and if necessary to occupy the entire Greek mainland (Operation Marita)." In the same directive Hitler stated that the "Yugoslavs' position cannot yet be clearly determined." This directive was prepared by WARLIMONT's office and was received by SCHNIEWIND, among others. On 20 January 1941, Hitler stated in a conference with representatives of the Italian Government that one of the purposes of the massing of troops in Rumania was for "an operation against Greece." A résumé of this conference was sent to the offices of Brauchitsch, SCHNIEWIND, and WARLIMONT.

28. On 26 March 1941, in reaction to the Yugoslav Government's adherence to the Tripartite Pact on the previous day, the Yugoslav regency was removed by a *coup d'état* and Peter was installed as King of Yugoslavia. Hitler immediately conferred with the leaders of the army, including HOLLIDT and Brauchitsch. Hitler stated that Yugoslavia was an uncertain factor in regard to the coming "Marita" action and even more in regard to the "Barbarossa" undertaking (U.S.S.R.) later on. In notes on the conference sent to WARLIMONT, among others, it was stated:

The Fuehrer is determined, without waiting for possible loyalty declarations of the new government, to make all preparations in order to destroy Yugoslavia militarily and as a national unit. No diplomatic inquiries will be made nor ultimatums presented. Assurances of the Yugoslav Government, which cannot be trusted anyhow, in the future will not be taken note of. The attack will start as soon as the means and troops suitable for it are ready. * * * Politically, it is especially important that the blow against Yugoslavia is carried out with unmerciful harshness and that the military destruction is done in a lightning-like undertaking.

29. On 28 March 1941, Raeder reported to Hitler regarding military operations against Yugoslavia. Later, in a diary entry known to SCHNIEWIND, he commented that Hitler's directive "* * * with ruthless logic * * * draws the conclusions which arise from the development of the position in Yugoslavia. After the recent occurrences Yugoslavia must be treated as an enemy, however future developments may be, and must, therefore, be de-

stroyed. Military operations should begin simultaneously with operation 'Marita,' if possible * * *." On 30 March 1941, Brauchitsch issued deployment instructions for "Action 25" against Yugoslavia and for the "Marita" action, saying:

The political situation in the Balkans having changed by reason of the Yugoslav military revolt, Yugoslavia has to be considered as an enemy even should it make declarations of loyalty at first. *The Fuehrer and Supreme Commander has decided therefore to destroy Yugoslavia as quickly as possible.*

* * * the air force shall attack continuously by day and night the Yugoslav ground organization and Belgrade.

Simultaneously—by no means earlier—the attack of the 12th Army (under the command of List) * * * begins against Yugoslavia and Greece.

On 6 April 1941, while the German Air Force bombed Belgrade, the German Army invaded Yugoslavia and Greece.

30. Only the defendants REINHARDT, HOLLIDT, SCHNIEWIND, REINECKE, WARLIMONT and LEHMANN are charged with responsibility under paragraphs 25 to 29 inclusive of this count.

F. The Union of Soviet Socialist Republics

31. On 29 July 1940, Jodl, in a conference at Bad Reichenhall, informed WARLIMONT and other military leaders that Hitler intended to attack the U.S.S.R., in the spring of 1941. On 6 September 1940, Jodl issued an OKW directive to WARLIMONT and Brauchitsch, among others, in which it was stated that the Eastern Territory would be manned more strongly in the weeks to come, but regroupings were not to create the impression in Russia that an offensive in the East was being prepared. On the same day, in compliance with this directive, Brauchitsch ordered the transfer of a large number of army units to the East, in preparation for operations against the U.S.S.R. Brauchitsch's order, together with an operational map for deployment, was sent to LEEB, KUECHLER, and Rundstedt, among others.

32. On 20 September 1940, a memorandum was issued to Brauchitsch from Hitler's headquarters, signed by Keitel and prepared by WARLIMONT's office, stating that Hitler had decided to send a military mission to Rumania, one of whose tasks was to prepare for deployment of German and Rumanian forces from Rumanian bases "in case a war with Soviet Russia is forced upon us."

33. On 12 November 1940, Hitler issued Directive No. 18, prepared by WARLIMONT's office, outlining the preparatory meas-

ures for the prosecution of the war. It was stated that political discussions had been initiated with the aim of clarifying Russia's attitude for the time being but:

Irrespective of the results of these discussions, all preparations for the East which have already been verbally ordered will be continued.

Instructions on this will follow, as soon as the general outline of the army's operational plans have been submitted to, and approved by, me (Hitler).

34. On 18 December 1940, Hitler issued Directive No. 21, also prepared by WARLIMONT, on the invasion of Russia. This directive named the proposed operation against Russia, "Fall Barbarossa" (Case Barbarossa), and stated: "The German Armed Forces must be prepared to *crush Soviet Russia in a quick campaign* before the end of the war against England." It stated that the army and the air force would be employed against Russia, and that the navy would continue the concentration of its forces against England. It continued:

The mass of the Russian Army in western Russia is to be destroyed in daring operation by driving forward deep wedges with tanks and the retreat of intact battle-ready troops into the wide spaces of Russia is to be prevented.

In quick pursuit, a (given) line is to be reached from where the Russian Air Force will no longer be able to attack German Reich territory. The first goal of operations is the protection against Asiatic Russia from the general line Volga-Archangelsk. In case of necessity, the last industrial area in the Urals left to Russia could be eliminated by the Luftwaffe.

35. On 20 January 1941, SCHNIEWIND, for the navy, issued a letter to the OKW, OKH, and OKL giving the intentions of the navy in respect to the planned campaign against the U.S.S.R., pursuant to Directive No. 21. On 31 January 1941, Brauchitsch issued an order concerning deployment for the "Barbarossa" operation, naming Rundstedt, commander of Army Group South; Bock, commander of Army Group Center; and LEEB, commander of Army Group North. On 2 February 1941, Hitler held a conference on "Fall Barbarossa", attended by Brauchitsch, in which the details of the planned attack on the U.S.S.R., were discussed. Notes of the conference were sent to WARLIMONT. On 3 February 1941, LEEB as commander of Army Group C conferred with HOTH, commander of Panzer Group 3, on plans for operations against the U.S.S.R., and on 8 February 1941, LEEB discussed these plans with representatives of the 18th Army, commanded by KUECHLER.

36. Preparations for the "Barbarossa" operation were carried on continuously by all the defendants herein, as well as by other military leaders, in the spring of 1941. For example, all units subordinate to LEEB and Rundstedt engaged in war games prepared elaborate tactical maps; Rundstedt issued orders for the concealment of troop movements; LEEB ordered KUECHLER to prepare for an attack on the Baltic Islands; as early as March, REINHARDT, as commander of the XXXXI Corps, was preparing a plan of attack for his corps; and on 25 April 1941 WARLIMONT was named as liaison officer from the OKW to Rosenberg in his capacity as Commissioner for the Central Control of Questions Connected with the East-European Region.

37. On 12 May 1941, a draft of an order for the murder of "political commissars" in the coming attack was issued from Hitler's headquarters, initialed by WARLIMONT, and reviewed by Lehmann, and on 19 May 1941, in a conference held in Brauchitsch's headquarters the German High Command decided that political commissars in the Soviet Army when captured would be handed over to police and SS officials for execution. On 13 May 1941, Keitel issued an order prepared by WARLIMONT and LEHMANN on military jurisdiction in the "Barbarossa" area, in which it was directed that German military courts were not to try enemy civilians, that any officer was authorized to decide whether suspected persons were to be shot, and that crimes committed by members of the Wehrmacht against the civilian population need not be punished.

38. On 15 May 1941, Brauchitsch again conferred with LEEB, on the plans for operations against the U.S.S.R. Following a conference on 25 May 1941, a Finno-German military agreement was executed on 10 June 1941 relative to the planned attack on the U.S.S.R. WARLIMONT and Brauchitsch participated in the preparation of this agreement. On 1 June 1941, Keitel issued a timetable prepared by WARLIMONT's office for "Fall Barbarossa", indicating the disposition of army, navy and air force units for the operation.

39. On 6 June 1941, WARLIMONT distributed a letter enclosing a draft of an order prepared with LEHMANN's assistance for the murder of political commissars in the planned operation against the U.S.S.R., and requesting that the order receive restricted distribution to high-ranking commanders and that oral orders be given to others. On 8 June 1941, Brauchitsch issued an order directing the liquidation of all political commissars. This order was distributed to LEEB, KUECHLER, and HOTH and thereafter to the other defendants herein, with the exception of SPERRLE, BLASKOWITZ, and SCHNIEWIND.

40. On 14 June 1941, Hitler held a conference on "Fall Barbarossa" in the Chancellery at Berlin to discuss with the military leaders preparations for the attack on the U.S.S.R. Among the participants in this conference were LEEB, KUECHLER, HOTH, WARLIMONT, Rundstedt, Brauchitsch, and Bock. On 22 June 1941, the German Armed Forces invaded the U.S.S.R. The military units which took part in the attack included Army Group North commanded by LEEB, Army Group South commanded by Rundstedt and with ROQUES as Rear Area Commander, the 18th Army commanded by KUECHLER, the 3d Panzer Group commanded by HOTH, the 11th Army with WOEHLER as Chief of Staff, the XLI Corps commanded by REINHARDT, the XXX Corps commanded by SALMUTH, and the 50th Infantry Division commanded by HOLLIDT. Rumania, Hungary, Finland, and Italy also declared war against and attacked the U.S.S.R., and Spain sent troops (including the "Blue Division") which joined in the attack.

41. All the defendants except SPERRLE and BLASKOWITZ are charged with responsibility under paragraphs 31 to 40 inclusive of this count; the defendants ROQUES and WOEHLER are charged with responsibility under this count only under such paragraphs.

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G. The United States of America

42. On 27 September 1940, Germany, on the advice of its military leaders, entered into a military and economic alliance with Italy and Japan. Partially as a result of this alliance, and after the attack by Japan on the United States, Germany declared war on the United States on 11 December 1941.

43. In addition to the acts and conduct of the defendants set forth above, the participation of the defendants in the planning, preparation, initiation, and waging of wars of aggression and invasions of other countries included the acts and conduct set forth in counts two and three of this indictment, which acts and conduct were committed as an integral part of the planning, preparation, initiation, and waging of wars of aggression and invasions of other countries. The allegations made in said counts two and three are hereby incorporated in this count.

44. The acts and conduct of the defendants set forth in this count were committed unlawfully, wilfully, and knowingly, and constitute violations of international laws, treaties, agreements and assurances, and of Article II of Control Council Law Number 10.

COUNT TWO—WAR CRIMES AND CRIMES AGAINST HUMANITY: CRIMES AGAINST ENEMY BELLIGERENTS AND PRISONERS OF WAR

45. Between September 1939 and May 1945, all of the defendants herein, with divers other persons including the co-participants listed in the Appendix, committed war crimes and crimes against humanity, as defined in Article II of Control Council Law Number 10, in that they participated in the commission of atrocities and offenses against prisoners of war and members of armed forces of nations then at war with the Third Reich or under the belligerent control of or military occupation by Germany, including but not limited to murder, ill-treatment, denial of status and rights, refusal of quarter, employment under inhumane conditions and at prohibited labor of prisoners of war and members of military forces, and other inhumane acts and violations of the laws and customs of war. The defendants committed war crimes and crimes against humanity in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations and groups connected with the commission of war crimes and crimes against humanity.

46. Unlawful orders initiated, drafted, distributed, and executed by the defendants directed that certain enemy troops be refused quarter and be denied the status and rights of prisoners of war, and that certain captured members of the military forces of nations at war with Germany be summarily executed. Such orders further directed that certain members of enemy armed forces be designated and treated by troops of the German Armed Forces, subordinate to the defendants, either as "partisans, Communists, bandits, terrorists", or by other terms denying them the status and rights of prisoners of war. Prisoners of war were compelled to work in war operations and in work having a direct relation to war operations, including the manufacture, transport, and loading of arms and munitions, and the building of fortifications. This work was ordered within the combat zone as well as in rear areas. Pursuant to a "total war" theory, and as part of a program to exploit all non-German peoples, prisoners of war were denied rights to which they were entitled under conventions and the laws and customs of war. Soldiers were branded, denied adequate food, shelter, clothing, and care, subjected to all types of cruelties and unlawful reprisals, tortured, and murdered. Special screening and extermination units, such as Einsatz groups of the Security Police and Sicherheitsdienst (commonly known as the "SD"), operating with the support and under the jurisdiction of

the Wehrmacht, selected and killed prisoners of war for religious, political, and racial reasons. Many recaptured prisoners were ordered executed. The crimes described in paragraphs 45 and 46 included, but were not limited to, those set forth hereafter in this count.

A. The "Commissar" Order

47. In a conference on 28 March 1941, some months prior to the invasion of the U.S.S.R., Hitler discussed with his commanding generals a proposed plan for the summary execution of all Soviet "political commissars", who were members of the Soviet Armed Forces fighting in uniform as combat troops. On 6 June 1941, WARLIMONT, with the assistance of LEHMANN, prepared and distributed an order entitled "Directive for the Treatment of Political Commissars" to the army, navy, and air force. On 8 June 1941, Brauchitsch transmitted that order with certain minor amendments to LEEB, KUECHLER, HOTH, and other military leaders, and each of them made further distribution. This order directed summary execution of political commissars even if they were serving in and wearing the uniform of Soviet military forces. It further provided that commissars were not to be recognized as soldiers and were to be granted none of the protections of international law. In implementation of this criminal order, REIN-ECKE issued a series of decrees for the screening, selection, and execution of Soviet prisoners of war as political commissars and for the transfer of such commissars to concentration camps for execution. The enforcement of these orders resulted in the murder of many thousands of prisoners of war. All of the defendants, with the exception of SPERRLE, BLASKOWITZ, and SCHNIE-WIND, are charged with responsibility for the initiation, issuance, distribution, and execution of such orders, and for the commission of crimes charged in this paragraph. The following particulars are set forth as examples of such crimes selected from many instances for which proof will be adduced:

a. From 21 June 1941 to about 8 July 1941, troops of the XLI Corps, commanded by REINHARDT, in Panzer Group 4 under Army Group North, commanded by LEEB, killed 97 "political commissars."

b. From 21 June 1941 to about 19 July 1941, troops of Panzer Group 4, under Army Group North, commanded by LEEB, killed 172 "political commissars."

c. From 21 June 1941 to about 1 August 1941, troops of Panzer Group 3 commanded by HOTH, killed 170 "political commissars."

d. On or about 1 October 1941, troops of the Rear Area of the

11th Army, of which WOEHLER was Chief of Staff, killed 1 "political commissar."

e. On or about 4 October 1941, troops of the 454th Security Division, under ROQUES as Commanding General of the Rear Area of Army Group South, killed 1 "political commissar."

f. From about 18 October 1941 to 26 October 1941, in the operational area of the XXVIII Corps in the U.S.S.R., troops of the 18th Army, commanded by KUECHLER and under Army Group North, commanded by LEEB, killed 17 "political commissars."

g. On 29 May 1942, in the operational area of the XLIV Corps, troops of the 17th Army, commanded by SALMUTH, killed 2 "political commissars."

B. The "Commando" Order

48. On 18 October 1942, Hitler issued an order, hereinafter referred to as the "Commando" order, prepared and drafted by WARLIMONT and LEHMANN. This order directed that "all enemies on so-called commando missions in Europe or Africa challenged by German troops, even if they are to all appearances soldiers in uniform or demolition troops, either armed or unarmed, in battle or in flight, are to be slaughtered to the last man * * * even if these individuals * * * should be prepared to give themselves up, no pardon is to be granted them on principle." On 30 July 1944, this "Commando" order was extended to members of military missions in an order suggested and drafted by WARLIMONT.

49. Enforcement of these orders resulted in the murder of many Allied troops. All of the defendants herein, with the exception of LEEB, received such orders and are charged with responsibility for the initiation, issuance, distribution, and execution of such orders and for the commission of crimes charged in this paragraph. The following particulars are set forth as examples of such crimes selected from many instances for which proof will be adduced:

a. On or about 7 July 1944, near Poitiers in France, troops of the LXXX Corps of the 18th [1st] Army, under Army Group G, commanded by BLASKOWITZ, executed 1 American prisoner of war and 30 British prisoners of war.

b. On or about 22 May 1944, on the island of Alimnia near Greece an English soldier and a Greek sailor were executed on instructions of WARLIMONT.

c. On or about 16 April 1944, a British prisoner of war was turned over by Stalag 7a, then under the control and jurisdiction of REINECKE, to the SD for execution.

d. On or about 10 December 1942, in or near Bordeaux, France, members of the German Naval Forces executed 2 uniformed British soldiers.

e. On or about 20 November 1942, near Stavanger, Norway, members of the German Armed Forces executed 17 uniformed British soldiers.

f. On or about 22 March 1944, near La Spezia, Italy, members of the German Armed Forces executed 15 uniformed U.S. soldiers.

g. In January 1945, in the Mauthausen concentration camp, Austria, from 12 to 15 American prisoners of war, comprising an American military mission, were executed.

C. Prohibited Labor of Prisoners of War

50. Prisoners of war held by the Germans were regarded as an unrestricted source of labor and millions of prisoners of war were used in labor prohibited by the Geneva Convention. All of the defendants herein, with the exception of SCHNIEWIND, initiated, issued, distributed, and executed orders directing the use of, and did use, prisoners of war in war operations and work having a direct relation to war operations, including the manufacture and transportation of arms and munitions, work on fortifications, the removal of mines, labor within zones of operations, and other dangerous work, said work being prohibited labor specifically forbidden by the Geneva Convention.

51. On 24 July 1941, Brauchitsch, as Commander in Chief of the Army, issued the following directive:

1. Screening, separation: The prisoners of war are to be separated if possible into the following groups. * * *

2. Asiatics (according to their race), Jews, German-speaking Russians. * * *

3. A transfer to the Reich of prisoners of war under I-2 will not take place. They have to be used in the first place for employment in the zone of operations, because employment of these prisoners of war in the Reich is out of the question.

The claims of the air force and navy for prisoner of war labor have to be filled.

52. On 3 August 1941, and on other occasions, officers of divisions in the 18th Army, then commanded by KUECHLER in Army Group North, commanded by LEEB, issued orders directing the removal of mines by prisoners of war. On 2 March 1942, in the LIX Corps of the 3d Panzer Army, commanded by REINHARDT, it was ordered that prisoners of war and local inhabitants, in case of suspicion of mined streets or areas, were to advance and remove the mines. On 16 March 1943, REINECKE, on behalf of

OKW, ordered that prisoners of war should be used as labor in war-essential industries, and prisoners of war were in fact so used.

53. On 2 February 1945, BLASKOWITZ, as Commanding General of Army Group G [H], ordered the use of prisoners of war for the construction of fortifications. On 31 March 1942, WOEHLE, as Chief of Staff of the 11th Army, dispatched from the 11th Army area in the U.S.S.R., 5,529 Soviet prisoners of war for labor in the armament factories in Germany. On 10 August 1942, in prison camp "Taps" in the U.S.S.R., within the rear area of the Army Group North, commanded by KUECHLER, 887 prisoners of war were employed in the construction of fortifications.

D. Murder and Ill-treatment of Prisoners of War

54. Millions of prisoners of war other than "commandos" and "commissars" were mistreated and killed. Out of 3,600,000 Soviet prisoners of war taken prior to August 1942, many hundreds of thousands died or were killed and the survivors were already in wretched physical condition. Such crimes were instigated and encouraged in orders and directives issued by various German military leaders. For example, on 8 September 1941, REINECKE ordered ruthless and criminal action against Soviet soldiers as follows:

The Bolshevik soldier has therefore lost all claim to treatment as an honorable opponent, in accordance with the Geneva Convention. * * * The order for ruthless and energetic action must be given at the slightest indication of insubordination, especially in the case of Bolshevik fanatics. Insubordination, active or passive resistance, must be broken immediately by force of arms (bayonets, butts, and firearms). * * * Anyone carrying out the order who does not use his weapons, or does so with insufficient energy, is punishable. * * * Prisoners of war attempting to escape are to be fired on without previous challenge. No warning shot must ever be fired. * * * The use of arms against prisoners of war is as a rule legal.

55. On or about 24 July 1941, and thereafter, all of the defendants herein, with the exception of SPERRLE, BLASKOWITZ, and SCHNIEWIND, initiated, issued, distributed, and executed orders directing the summary execution of prisoners of war similar to the following Brauchitsch directive:

I. Screening, separation: The prisoners of war are to be separated if possible into the following groups.

* * * * *

3. Politically obnoxious and suspicious elements, commissars and instigators.

* * * * *

3. The transfer of prisoners of war under I-3 into the Reich is prohibited. They have to be treated according to special directives by decision of the camp commandant.

56. On 9 August 1941, ROQUES, Commanding General of Army Group South, Rear Area, issued to units of his command the following order:

The numerous reports about dropped parachutists show that the Russians are using this method of warfare to an ever-increasing extent in the rear area. * * *

Therefore, they also, as a matter of principle, are to be treated as guerrillas.

57. All of the defendants, except SCHNIEWIND, are charged with responsibility for the initiation, issuance, distribution, and execution of orders such as those set forth in paragraphs 54, 55, and 56, and for the commission of crimes charged in paragraphs 54 to 57, inclusive. The following particulars are set forth as examples of such crimes selected from many instances for which proof will be adduced:

a. On or about 28 July 1941, in the sector of Zviahel in the U.S.S.R., troops commanded by ROQUES, within the rear area of Army Group South, killed 73 surrendered Soviet prisoners of war as "guerrillas".

b. On or about 25 August 1941, in the U.S.S.R., troops of the 18th Army, commanded by KUECHLER, under Army Group North, commanded by LEEB, killed 35 wounded prisoners of war.

c. On or about 9 September 1941, in Djedkovov in the U.S.S.R., troops of Panzer Group 3, then under the command of HOTH, killed 4 Soviet prisoners of war.

d. On or about 13 September 1941, troops of the 213th Security Division, ROQUES, as Commanding General of the Rear Area Army Group South, executed 13 escaped and recaptured Soviet prisoners of war.

e. On or about 15 October 1941, in the area of the 24th Infantry Division, more than 1,000 Soviet prisoners of war, under ROQUES, were shot to death because they were unable to march, or died from exhaustion.

f. On 16 October 1941, in Nikolaev, troops of the 11th Army, of which WOEHLER was chief of staff, delivered 75 Jewish prisoners of war to the SD for execution.

g. On or about 22 October 1941, 20 Soviet prisoners of war were executed at concentration camp "Gros-Rosen"; on or about 15 October 1941, 21 Soviet prisoners of war were executed at Dachau; on or about 22 October 1941, 40 Soviet prisoners of war were executed at Dachau; on or about 8 November 1941, 99 Soviet prisoners of war were executed at Dachau; on or about 12 November 1941, 135 Soviet prisoners of war were executed at Dachau; between 1 September 1941 and 23 January 1942, 1,082 Soviet prisoners of war were selected by the Gestapo at Regensburg for execution; all of said prisoners of war being under the control of REINECKE and executed pursuant to agreements made by REINECKE with other authorities.

h. In the period immediately preceding 9 November 1941, in the operational area of the 18th Army prisoners of war under the control of KUECHLER, Commander in Chief of the 18th Army, under Army Group North, commanded by LEEB, died at the rate of 100 daily from malnutrition.

i. In the month of September 1942, in the rear area of the 2d Army commanded by SALMUTH, 384 prisoners of war died or were shot, and 42 others were turned over to the SD for execution.

j. In the period from 1 January 1942 to 6 March 1942, in the rear area of the 11th Army, 2,366 prisoners of war were killed or died of exhaustion, neglect, and disease, and 317 prisoners of war were turned over to the SD for execution.

k. From 14 January 1942 to 29 September 1942, in the rear area of Army Group North, commanded by KUECHLER, 200 captured Soviet prisoners of war were executed.

l. In July 1943, in the rear area of the 4th Panzer Army commanded by HOTH, 24 prisoners of war were turned over to the SD for execution, and in August 1943, 39 prisoners of war were turned over to the SD for execution.

m. In January 1945, a French prisoner of war, General Mesny, then under the control of the German Prisoner of War Administration, was murdered, and thereafter false reports of the cause and nature of his death were issued by REINECKE with knowledge that Mesny had been murdered.

58. The acts and conduct of the defendants set forth in this count were committed unlawfully, wilfully, and knowingly, and constitute violations of the laws and customs of war, of international treaties and conventions, including the Hague Regulations, 1907, and the Prisoner-of-War Convention (Geneva, 1929), of the general principles of criminal law as derived from the criminal laws of all civilized nations, of the internal penal laws of the countries in which such crimes were committed, and of Article II of Control Council Law Number 10.

COUNT THREE—WAR CRIMES AND CRIMES AGAINST HUMANITY: CRIMES AGAINST CIVILIANS

59. Between September 1939 and May 1945, all of the defendants herein, with divers other persons including the co-participants listed in the Appendix, committed war crimes and crimes against humanity, as defined in Article II of Control Council Law Number 10, in that they participated in atrocities and offenses, including murder, extermination, ill-treatment, torture, conscription to forced labor, deportation to slave labor, or for other purposes, imprisonment without cause, killing of hostages, persecutions on political, racial, and religious grounds, plunder of public and private property, wanton destruction of cities, towns, and villages, devastation not justified by military necessity, and other inhumane and criminal acts against German nationals and members of the civilian populations of countries and territories under the belligerent occupation of, or otherwise controlled by Germany. The defendants committed war crimes and crimes against humanity, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations and groups which were connected with the commission of war crimes and crimes against humanity.

60. Numerous murders and other crimes against civilians were carried out by troops and other agencies of the German Reich under the command or control of the German Armed Forces. Special extermination groups within the framework of the army, such as Einsatz groups of the Security Police and SD and other police units, operating under army jurisdiction, were directed to treat Soviet nationals, Jews, democrats, Nationalists, gypsies, and others as racial inferiors, subhumans, and beasts. Pursuant to this program of genocide and extermination, millions of such persons were killed. As the result of the suspension of courts martial in territories invaded by the German Army, hundreds of civilians were wantonly executed without trial. Suspicion of offenses against the German forces was considered sufficient reason for execution or secret abduction. Civilian functionaries and political leaders were executed merely because of their position. Murder and violence by German troops were encouraged by German Army order and it was specifically directed that the perpetrators of such crimes need not be punished. The German Army officially disseminated propaganda, literature, and public expressions advocating and inciting murder, enslavement, genocide, and extermination.

61. Collective penalties, seizure and execution of hostages and reprisal measures were instituted as part of a deliberate scheme of terror and intimidation wholly unwarranted and unjustified by military necessity, and in flagrant violation of the laws and customs of war, to compel the victims to furnish military information, and to exterminate certain races and classes. These measures consisted not only of offenses against the persons of the victims but also included a program of wholesale destruction and devastation of property. Offers of surrender were refused and entire cities and villages were razed.

62. Masses of the civilian population were forcibly conscripted for labor in the Reich and in the occupied territories and were deported and forced to labor under inhumane conditions. Civilians were forced to labor on fortifications, entrenchments, clearing mines, and in other dangerous operations, even while under fire.

63. Invaded territories were exploited for the benefit of the German economy. Cattle, food, personal property, and other material resources were seized. All forms of wealth, both by subterfuge and by outright confiscation, were plundered by the military and by attached agencies within the organization and jurisdiction of the armed forces. The crimes described in paragraphs 59 to 63 inclusive, included but were not limited to, those set forth hereinafter in this count.

A. Deportation and Enslavement of Civilians

64. The acts, conduct, plans, and enterprises charged in this count included those carried out as part of the slave labor program of the Third Reich, in the course of which millions of persons including women and children were subjected to forced labor under cruel and inhumane conditions which resulted in widespread suffering and many deaths. At least 5,000,000 workers were deported to Germany. The conscription of labor was accomplished in many cases by drastic and violent methods. Workers destined for the Reich were sent under guard to Germany, often packed in trains without adequate heat, food, clothing, or sanitary facilities. Other inhabitants of occupied countries were conscripted and compelled to work in their own countries to assist the German war economy. The resources and needs of the occupied countries were completely disregarded in the execution of the said plans and enterprises, as were the family honor and rights of the civilian population involved. The treatment of slave laborers and prisoners of war was based on the principle that they should be fed, sheltered, and treated in such a way as to exploit them to the greatest possible extent at the lowest expenditure. The German Armed Forces played an important part in this enslavement operation and all of

the defendants, with the exception of SCHNIEWIND, are charged with participation therein.

65. On 17 September 1942, a Hitler decree transmitted by WARLIMONT for the OKW stated that it was necessary to employ all available labor forces for the erecting of coastal defenses in the west. This order was received, distributed, and executed by Rundstedt and other military leaders. Similarly, on 25 January 1943, Rundstedt, as Commander in Chief West, issued to subordinate commands his "Fundamental Order No. 2", directing that protection and cooperation be given to "recruiting commissions" acting for the purpose of conscripting and deporting slave labor in the occupied territory. On 1 August 1944, BLASKOWITZ as Commander in Chief of Army Group G directed the 1st Army, the 19th Army, and other of his units to give all help and assistance to labor drafting agencies, since additional foreign workers were needed to speed up production in Germany. Every able-bodied male suspected of belonging to, or being in sympathy with the resistance movement was to be deported to Germany for labor, and the responsibility for carrying out such measures was to rest with the armies in their respective sectors. Again on 10 August 1944, BLASKOWITZ distributed to units of his army group an order of the Commander in Chief West providing that all able-bodied men between 16 and 55 years of age in sectors where resistance forces were observed were to be arrested for deportation to Germany.

66. On 21 July 1941, on 16 August 1941, and on other dates, ROQUES, Commanding General, Rear Area, Army Group South, issued an order to subordinate units that forced labor gangs, especially including Jews, were to be set up immediately in all territory occupied by the Germans. On 4 May 1943, REINHARDT as Commander in Chief of the 3d Panzer Army in the U.S.S.R., ordered all subordinate units in his army to collect for labor allocation all men between the ages of 16 and 50 and all women between the ages of 16 and 40 capable of bearing arms and able to work.

67. The orders set forth above, and others similar thereto, resulted in numerous crimes. The following particulars are set forth as further examples of such crimes selected from many instances for which proof will be adduced:

a. On or about 3 July 1944, near Nice in France, troops of the LXII Reserve Corps in Army Group G, commanded by BLASKOWITZ, arrested 60 French nationals for deportation to Germany as laborers.

b. From October 1941 to January 1942, troops of the 285th Security Division, in the rear area of Army Group North, com-

manded by LEEB, in cooperation with "recruiting missions" for forced labor, deported to slave labor in Germany 1,496 men and 2,824 women.

c. From 11 December to 20 December 1941, in Dshankey [Dzhankoi], within the rear area of the 11th Army, of which WOEHLER was Chief of Staff, a camp for Jews of the Dshankey [Dzhankoi] district was established by the army and guarded by troops of the army for the purpose of providing all types of slave labor for the city district.

d. From 1 to 14 March 1942, within the operational area of the XLIV Corps in the U.S.S.R., troops of the 17th Army, then commanded by HOTH, forced the evacuation of all able-bodied men from 16 to 55 years of age, and conscripted 2,500 civilians to forced labor on field fortifications.

e. On 27 May 1943, in the operational area of the LIV Corps of the 3d Panzer Army, commanded by REINHARDT, 5,850 civilians were employed in labor for the corps, and of that number 2,033 were employed in work on fortifications and entrenchments.

f. In May 1943, in the rear area of the 6th Army, commanded by HOLLIDT, all girls of 18 and 19 years of age were drafted for forced labor on fortifications.

g. On or about 22 August 1943, the civilian population within the operational area of the 4th Panzer Army under the command of HOTH were forced to labor on entrenchment work and on or about 27 November 1943, the civilian population of certain designated villages were forced to furnish mine searching squads for the purpose of keeping the streets clear of mines.

B. Plunder of Public and Private Property, Wanton Destruction and Devastation not Justified by Military Necessity

68. All of the defendants are charged with unjustified devastation, wanton destruction, and plunder of public and private property in German occupied territory pursuant to a deliberate design and policy of the German Armed Forces. Thus, on 2 March 1942, troops of the LIX Corps of the 3d Panzer Army, commanded by REINHARDT, were issued the following order:

The Russian winter demands sufficient means of protection against the cold. Wherever the needed articles cannot be supplied through the supply channels, they are to be confiscated in the country *without* regard for the local population.

There must no longer be a soldier doing duty wearing low boots or without warm gloves. Wherever the organization of the Korueck proves insufficient, the troops are hereby ordered to

help themselves. The equipment of the soldiers will vary depending on their assignment.

On 23 December 1941, Manstein, as Commander in Chief of the 11th Army, issued an order to SALMUTH, commanding the XXX Corps, stating: "All land that we have been forced to abandon to the enemy must be made unusable. Each village must be destroyed and burned down, without regard for the population, in order to make it uninhabitable for the enemy. This must be prepared in advance. If the destruction is not possible, undestroyed towns and villages must be later destroyed by the air force." On 11 August 1941, ROQUES, as Commanding General of the Rear Area of Army Group South, ordered the seizure of all Jewish religious items made from precious metals. The following particulars are set forth as further examples of such crimes, selected from many instances for which proof will be adduced:

a. In December 1941 and January 1942, and thereafter, in the operational area of the 3d Panzer Army commanded by REINHARDT and pursuant to his direct order to create a devastated zone between the German and Russian lines, all villages and houses in line of retreat of the army were burned, all cattle driven away or slaughtered, all non-German vehicles were destroyed, all civilian furs and felt boots were seized, and the entire population of the devastated zone evacuated.

b. In the fall and winter of 1943, in the U.S.S.R., in territories being evacuated by Army Group North commanded by KUECHLER, in order to force an evacuation or elimination of the population, villages, houses, wells, mills, cellars, and furnaces were destroyed, and all movable items, including milling stones, tools, carts, etc., were carried back or destroyed by the troops, resulting in innumerable civilian deaths and the destruction of a tremendous amount of property.

c. In November 1943, troops of the 6th Army commanded by HOLLIDT seized all cattle, poultry, and agricultural machinery in the area, and removed 40,000 tons of corn, of which 4,000 tons were thrown into the Dnepr River.

d. In the period from 3 October 1944 to 17 January 1945, after the capitulation of the city of Warsaw, Poland, troops of units within Army Group Center, commanded by and subject to the control and jurisdiction of REINHARDT, razed the city of Warsaw.

C. Murder, Ill-treatment and Persecution of Civilian Populations

69. Pursuant to the extermination policies of the Third Reich, millions of civilians, including at least 6,000,000 Jews, were

slaughtered. Innumerable others were ill-treated, tortured, and persecuted for political, racial, and religious reasons. Many of these murders and inhumanities were committed by regular troops of the German Armed Forces or by other military or police units under their command and control. All of the defendants herein are charged with responsibility for the initiation, issuance, distribution, and execution of the orders hereinafter set out and orders similar thereto, and for the commission of the crimes charged in paragraphs 69 to 81, inclusive.

70. On 22 July 1940, KUECHLER, Commander in Chief of the 18th Army, issued an order in which he said, among other things: "I ask further that any soldier, especially officers, refrain from criticism of the racial struggle which is being carried out; for example, the treatment of the Polish minority, the Jews, and church matters. The racial struggle which has raged in the East for centuries requires for its final racial solution decisive measures carried out in an energetic manner."

71. On 14 May 1941, Keitel issued an order, drafted and prepared by WARLIMONT and LEHMANN, and directly distributed to SCHNIEWIND, Brauchitsch, and others of the German High Command, and thereafter received, distributed, and executed by all of the defendants herein. The order, entitled, "Order Concerning the Exercise of Martial Jurisdiction and Procedure in the Area Barbarossa and Special Military Measures," directed the troops to take ruthless action and that:

* * * military courts and courts martial will not be competent for *crimes committed by enemy* civilians. * * *

Guerrillas should be disposed of ruthlessly by the troops, whether fighting or in flight.

Likewise all other attacks by enemy civilians on the armed forces, its members and employees, are to be suppressed at once by the troops, using the most extreme methods. * * *

Where such measures have been neglected or were not at first possible, *persons suspected of criminal action will be brought at once before an officer*, who will decide whether they are to be shot. On the orders of an officer with the powers of at least a battalion commander, *collective despotic measures* will be taken without delay against *localities* * * * (from which attacks emanate). * * *

With regard to offenses committed against enemy civilians by members of the Wehrmacht and its employees, *prosecution is not obligatory*, even if the deed is at the same time a military crime or offense.

A court martial was to be ordered in such cases only " * * * if

maintenance of discipline or security of the forces call for such a measure."

72. In July 1941, Brauchitsch, in an order issued to the Commander of the Rear Area of Army Group North, responsible to LEEB, and to ROQUES the Commander of the Rear Area of Army Group South, responsible to Rundstedt, and thereafter received, issued, distributed, and executed by all of the defendants herein with the exception of SPERRLE, BLASKOWITZ, SCHNIEWIND, REINECKE, WARLIMONT, and LEHMANN, directed:

Attacks and acts of violence of all kinds against persons or things as well as all attempts to be fought down with arms ruthlessly until the annihilation of the opponents is accomplished.

Whenever passive resistance is encountered or if barricades, shootings, attacks, or other acts of sabotage occur where the perpetrators cannot be immediately determined and liquidated as provided in previous directives, immediate collective measures of force are to be carried out. Previous arrests of hostages as a guarantee against future violations are not necessary.

Russian soldiers who become separated from their unit and who roam around in the army rear areas and as such are a threat to the pacification of the country are to be called upon by proclamation and radio to report at once to German authorities. In case they do not report after the deadline, they are to be considered as guerrillas and treated as such.

All assistance by the population favoring partisans, stragglers, etc., is also to be considered as guerrilla warfare.

Suspicious elements who cannot be proved to have committed serious criminal acts but who seem dangerous because of their convictions and attitude are to be turned over to Einsatzgruppen of the SP or SD. The roaming around of persons without identification papers is to be stopped.

73. On 21 July 1941, on 11 August 1941, on 28 August 1941, and on other dates, ROQUES as Commanding General of the Rear Area of Army Group South issued orders to subordinate units directing that Jews were to be compelled to wear identifying insignia, that they were to be used for forced labor and were to receive food rations lower than those of the rest of the population, that they were to pay contributions, that ghettos were to be set up, and that Jewish religious services were to be prohibited.

74. On 16 September 1941, Keitel in an order which emanated from WARLIMONT'S department and was distributed to SCHNIEWIND, LEHMANN, and Brauchitsch directly, as well as to other military leaders of the Wehrmacht, and during the

period immediately following 16 September 1941, was received, issued, distributed, and executed by all the defendants herein, directed:

It should be inferred, in every case of resistance * * * that it is of Communist origin.

* * * the most drastic measures should be taken immediately on the first indication. * * * In this connection it should be remembered that a human life in unsettled countries frequently counts for nothing and a deterrent effect can be attained only by unusual severity * * * the death penalty for 50-100 Communists should generally be regarded in these cases as suitable atonement for one German soldier's life.

75. On 1 October 1941, SALMUTH, as Commanding General of the XXX Corps in the 11th Army ordered as follows:

The battle against bolshevism requires an energetic and ruthless attack, especially against Jews, the chief carriers of bolshevism.

76. On 7 December 1941, the Commanding General of the 257 Infantry Division, in the 17th Army commanded by HOTH, issued special orders on partisan warfare. These orders stated:

For the interrogation the following measures are to be used: It has never happened that a person who is being interrogated incriminates a single person without being harshly treated. Therefore, the following is to be observed: All persons being interrogated are to be held strictly to the truth. From the outset they expect to be treated according to the methods used by the NKVD and for this reason they expect beatings from the very beginning. The following measures are to be used: 25 lashes on the buttocks, in the case of women, with a rubber hose and, in the case of men, with an oxtail or a night stick.

* * * persons who have been severely interrogated as well as those who have been found guilty (they have to be confronted) must be liquidated at the end of the strictest and thorough interrogation. Generally the liquidations should take place in an inconspicuous way such as with a shot through the neck, and the bodies should be buried in such a way that it is no longer possible for the relatives to exhume them.

77. On 2 March 1942, and thereafter troops of the LIX Corps of the 3d Panzer Army, commanded by REINHARDT, committed murder and other crimes in execution of the following order issued by the corps:

A weak attitude towards the population * * * costs blood * * *. In every Russian he must see an active or passive supporter of the Red Army * * *. Arrest of hos-

tages may be necessary * * *. For incidents in a village its inhabitants are to be made responsible on principle. Reprisals must be directed against the life and property of the inhabitants. The question of guilt of an individual plays no role. Only the strongest measures can serve as a deterrent and protect the lives of German soldiers.

78. On 12 February 1944, Rundstedt, as Commander in Chief West, distributed to SALMUTH, commander of the 15th Army, and to other subordinates, instructions for the combatting of partisans. In the period immediately following 12 February 1944, SALMUTH received and distributed to troops under his command and jurisdiction these instructions, directing immediate counter-measures against all assaults on troop columns, including immediate return of fire, arrest of all civilians in the vicinity, and burning down of houses from which shots had been fired. It also stated:

If innocents are hurt, it is regrettable, but exclusively the fault of the terrorists.

* * * In view of the present situation there is no reason for punishment if the measures taken should prove too severe. Again on 11 June 1944, Rundstedt as Commander in Chief West issued to BLASKOWITZ and other subordinate commanders an order directing:

* * * that in the large scale operations against the bands in southern France, action will be taken with ruthless force and without mercy.

* * * for return of order and security the most severe measures have to be taken to intimidate the inhabitants of these repeatedly infested territories. * * *

79. The execution of the above-described orders resulted in numerous murders and other crimes. The following particulars are set forth as further examples of such crimes, selected from many instances for which proof will be adduced:

a. From 22 June 1941 to 31 December 1941, within the Rear Area of Army Group North, troops of the 285th Security Division, under the control and jurisdiction of Army Group North, commanded by LEEB, summarily shot 841 persons, arbitrarily listed by the Division as 738 "partisans and civilians", 99 "persons", and 4 Red Army soldiers "shot while escaping".

b. On or about 28 July 1941, within the Rear Area of Army Group South, troops subject to the control and command of ROQUES, Commanding General of the Rear Area of Army Group South, executed 1,658 Jews.

c. From 1 August 1941 to 31 March 1942, troops within the rear area of Army Group North, commanded by LEEB until 18

January 1942 and thereafter by KUECHLER, captured 8,329 civilians and Soviet soldiers, arbitrarily defined as "partisans", and killed a majority of those captured, without trial.

d. On or about 31 August 1941, in Czerwone, troops commanded by ROQUES within the rear area of Army Group South, executed 63 Jews.

e. From 14 September 1941 to 28 September 1941, troops of Panzer Group 3, commanded by HOTH, killed 281 persons, 120 as "actual partisans," and 161 as "potential partisans".

f. In the period immediately prior to 28 October 1941, in the city of Melitopol within the rear area of the 11th Army, of which WOEHLER was chief of staff, 2,000 Jews were turned over by the army to the SD for execution.

g. From about 5 November to 15 November 1941, in Simferopol, within the rear area of the 11th Army, commanded by Manstein and with WOEHLER as chief of staff, members of the SD and army executed 11,000 Jews.

h. In November 1941 in Kalinin, by special order of the commander of Kalinin, under Panzer Group 3, commanded by REINHARDT, 10 insane persons were killed because "there was no possibility to provide for their quarters and food".

i. On or about 3 January 1942 in Makarjewo [Markarevskaya], by direction of KUECHLER, Commander in Chief of the 18th Army, under Army Group North, commanded by LEEB, members of the SD exterminated approximately 240 insane persons located in the insane asylum at Makarjewo.

j. On 14 January 1942, in the area of Eupatoria [Yevpatoriya], troops in the rear area of the 11th Army, killed 1,300 male persons in retaliation for alleged civilian support of a landing by Soviet troops.

k. From 28 February 1942 to 14 March 1942, within the operational area of the XLIV Corps, troops of the 17th Army, commanded by HOTH, delivered 53 persons for execution to members of SD units, and, in addition, executed 63 persons as "partisans", 112 "for moving around without identification and suspicion of illegal activities", 28 as "Communists", 27 as "spies", 4 "saboteurs", 6 "thieves", and 8 persons "moving in unauthorized front lines".

l. In March 1942, in the village of Kolushy, troops of the 3d Panzer Army commanded by REINHARDT destroyed the village and killed all of its inhabitants as an antipartisan reprisal action.

m. From 15 March 1942 to 29 April 1942, within the area of the XLIV Corps, troops of the 17th Army, commanded by HOTH,

summarily executed 140 persons as "partisans", 147 as "Communists", 151 as "spies", 23 for "sabotage and refusal to work", 44 for "anti-German propaganda", 14 for "theft", 13 as "Jews", and 15 for "moving about without identification papers".

n. From 30 April 1942 to 14 May 1942, within the operational area of the XLIV Corps, troops of the 17th Army, commanded by SALMUTH, summarily executed 17 persons as "partisans", 12 as "Communists", 10 as "spies", 5 as "saboteurs", 4 for "theft", 8 for "possession of arms", 4 for "anti-German propaganda", 1 for "refusal to work", and 2 as "Jews".

o. On 9 June 1942, troops of the 285th Security Division in the rear area, Army Group North, commanded by KUECHLER, shot 128 gypsies as "partisan helpers".

p. On 13 and 14 June 1942, near Wjasma [Vyazma], by direct order of REINHARDT as Commanding General of the 3d Panzer Army, the SD in Wjasma killed 113 physically and mentally abnormal persons "on suspicion that those cripples were used for espionage".

80. Millions of murders and other crimes in the eastern territories occupied by the Germans were committed by special task forces called "Einsatzgruppen" formed from personnel of the SS, the SD, the Gestapo and other police units. Pursuant to an agreement made in April 1941 between the SD and the Army, these forces accompanied the German Army into the Eastern Occupied Territories and operated within the jurisdictional spheres of the army for the purpose of exterminating elements of the population considered "inferior" and "politically or racially undesirable". On 28 April 1941 Brauchitsch issued a directive, previously reviewed by WARLIMONT, to Rundstedt and other military leaders. This directive authorized the operations of the Einsatz groups within the operational areas of the army pursuant to the right of the armies to exclude their employment and subject to the duty of the groups to report to the armies their missions and accomplishments. Initially four Einsatzgruppen were formed, each of which supervised the operations of a number of subordinate units. Einsatzgruppe A operated mainly in the Baltic region within the area of Army Group North commanded first by von LEEB and later by von KUECHLER; Einsatzgruppe B operated mainly within the area of Army Group Center commanded by von Bock; Einsatzgruppe C operated mainly within the area of Army Group South commanded by von Rundstedt; Einsatzgruppe D operated mainly within the area of the 11th Army commanded by von Manstein. The following particulars are set forth as examples of crimes selected from many instances for which proof will be adduced:

a. From 20 October 1941 to 30 October 1941, in Mariupol, members of the SD and soldiers, all under the command and jurisdiction of the 11th Army, of which WOEHLER was chief of staff, executed 8,000 Jews and turned over the vacated Jewish homes, clothes, and personal belongings to the 11th Army for military use.

b. Immediately prior to 1 October 1941, in the city of Kiev, units within the rear area of Army Group South, under the control and jurisdiction and subject to the command of ROQUES, executed 34,000 Jews.

c. From 22 June 1941 to 15 October 1941, in Lithuania, Latvia, Estonia, and White Ruthenia, Einsatzgruppe A within the area of Army Group North, commanded by LEEB, murdered 118,430 Jews and 3,398 Communists.

d. From 22 June 1941 to 3 November 1941 in the vicinity of Zhitomir, Novo Ukrainka and Kiev all within the area of Army Group South, Einsatzgruppe C murdered more than 75,000 Jews.

e. From 1 October 1941 to 15 October 1941, in the area east of [the] Dnepr, within the operational area of the 11th Army, with WOEHLER as Chief of Staff, Einsatzgruppe D murdered 4,891 Jews and 46 Communists.

81. On 7 December 1941 and thereafter orders and decrees, respectively known and referred to as "Nacht und Nebel" (Night and Fog) and "Sabotage" and "Terror" decrees, prepared and formulated by WARLIMONT and LEHMANN, were issued, directing the secret seizure, terrorization, and murder, in the occupied territories, of civilians suspected or accused of committing offenses or acts of resistance against the German occupying forces, and further directed that only those cases should be judicially tried in the occupied territories where both the trial and execution of the offenders could be accomplished within a week after arrest. In other cases, the orders further directed, the accused were to be secretly taken to Germany and their whereabouts and subsequent disposition kept in complete secrecy to serve the dual purpose of terrorizing the victims' families and friends and barring recourse to evidence, witnesses and counsel. Thereafter, in 1944, orders emanating from OKW and prepared and formulated by WARLIMONT and LEHMANN suspended all legal proceedings and intensified the severity of the terror decrees. As a result of this series of decrees, innumerable persons were imprisoned without trial, forced to slave labor, imprisoned in concentration camps and murdered.

82. The acts and conduct of the defendants set forth in this count were committed unlawfully, wilfully, and knowingly, and

constitute violations of the laws and customs of war, of international treaties and conventions, including the Hague Regulations, 1907, and the Prisoner-of-War Convention (Geneva, 1929), of the general principles of criminal law as derived from the criminal laws of all civilized nations, of the internal penal laws of the countries in which such crimes were committed, and of Article II of Control Council Law Number 10.

COUNT FOUR—COMMON PLAN OR CONSPIRACY

83. All the defendants, with divers other persons, during a period of years preceding 8 May 1945, participated as leaders, organizers, instigators, and accomplices in the formulation and execution of a common plan and conspiracy to commit, and which involved the commission of, crimes against peace (including the acts constituting war crimes and crimes against humanity, which were committed as an integral part of such crimes against peace) as defined in Control Council Law Number 10, and are individually responsible for their own acts and for all acts committed by any persons in the execution of such common plan or conspiracy.

84. The acts and conduct of the defendants set forth in counts one, two and three of this indictment formed a part of said common plan or conspiracy and all the allegations made in said counts are incorporated in this count.

WHEREFORE, this indictment is filed with the Secretary General of the Military Tribunals and the charges herein made against the above-named defendants are hereby presented to the Military Tribunals.

TELFORD TAYLOR
Brigadier General, USA
Chief of Counsel for War Crimes
Acting on behalf of the United
States of America

Nuernberg, 28 November 1947

APPENDIX TO INDICTMENT

Statement of Military Positions Held by the Defendants and Co-Participants

The following is a list of the military positions held by each of the defendants and co-participants named in the indictment. Each of the defendants, in holding and exercising these positions, committed crimes against peace, war crimes, and crimes against humanity as set forth in this indictment.